

THE GENERAL PROPERTY TAX ACT (EXCERPT)
Act 206 of 1893

211.9m Qualified new personal property; exemption; combined document; requirements; denial of claim; books and records; fraudulent claim; penalties; amendment of assessment roll; deadline requirements; definitions.

Sec. 9m. (1) Beginning December 31, 2015 and each year thereafter, qualified new personal property for which an exemption has been properly claimed under subsection (2) is exempt from the collection of taxes under this act.

(2) A person shall claim the exemption under this section and section 9n by filing each year a combined document that includes: the form to claim the exemption under this section and section 9n, a report of the fair market value and year of acquisition by the first owner of qualified new personal property, and for any year before 2023, a statement under section 19. All of the following apply to a claim of the exemption under this section:

(a) The combined document shall be in a form and manner prescribed by the department of treasury.

(b) Leasing companies are not eligible to receive the exemption under this section and may not use the combined document prescribed in this section. With respect to personal property that is the subject of a lease agreement, regardless of whether the agreement constitutes a lease for financial or tax purposes, all of the following apply:

(i) If the personal property is eligible manufacturing personal property, the lessee and lessor may elect that the lessee report the leased personal property on the combined document.

(ii) An election made by the lessee and the lessor under this subdivision shall be made in a form and manner approved by the department.

(iii) Absent an election, the personal property shall be reported by the lessor on the personal property statement unless the exemption for eligible manufacturing personal property is claimed by the lessee on the combined document.

(c) The combined document prescribed in this section, shall be completed and delivered to the assessor of the township or city in which the qualified new personal property is located by February 20 of each year.

(d) The assessor shall transmit to the department of treasury the information contained in the combined document filed under this section, and other parcel information required by the department of treasury, in the form and manner prescribed by the department of treasury by no later than April 1.

(e) A person claiming an exemption under this section shall rescind the claim of exemption by December 31 of the year in which exempted property is no longer eligible for the exemption by filing with the assessor of the township or city a rescission affidavit in a form prescribed by the department of treasury.

(f) The assessor of the township or city shall annually transmit the rescission affidavits filed, or the information contained in the rescission affidavits filed, under this section to the department of treasury in the form and in the manner prescribed by the department of treasury no later than April 1.

(3) If the assessor of the township or city believes that personal property for which the form claiming an exemption is timely filed by February 20 each year is not qualified new personal property or the form filed was incomplete, the assessor may deny that claim for exemption by notifying the person that filed the form in writing of the reason for the denial and advising the person that the denial shall be appealed to the board of review under section 30 by filing a combined document as prescribed under subsection (2). If the denial is issued after the first meeting of the March board of review that follows the organizational meeting, the appeal of the denial is either to the March board of review or the Michigan tax tribunal by filing a petition and a completed combined document as prescribed under subsection (2), within 35 days of the denial notice. The assessor may deny a claim for exemption under this subsection for the current year only. If the assessor denies a claim for exemption, the assessor shall remove the exemption of that personal property and amend the tax roll to reflect the denial and the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes.

(4) A person claiming an exemption for qualified new personal property exempt under this section shall maintain books and records and shall provide access to those books and records as provided in section 22.

(5) If a person fraudulently claims an exemption for personal property under this section, that person is subject to the penalties provided for in section 21(2).

(6) For 2016 only, if an owner of qualified new personal property did not file form 5278 by February 22, 2016 or filed an incomplete form 5278 by February 22, 2016 to claim the exemption under this section with the assessor of the city or township in which the qualified new personal property is located, that owner may file form 5278 with the assessor of the city or township in which the qualified new personal property is located no later than May 31, 2016. If the assessor determines that the property qualifies for the exemption

under this section, the assessor shall immediately amend the assessment roll to reflect the exemption. The assessor of the township or city shall transmit the affidavits filed, or the information contained in the affidavits filed, under this section, and other parcel information required by the department of treasury, to the department of treasury in the form and in the manner prescribed by the department of treasury no later than June 7, 2016. The owner shall still be required to meet all deadlines required under section 7 of the state essential services assessment act, 2014 PA 92, MCL 211.1057. If the assessor of the township or city believes that personal property for which an affidavit claiming an exemption is filed under this subsection by May 31, 2016 is not qualified new personal property, the assessor may deny that claim for exemption by notifying the person that filed the affidavit in writing of the reason for the denial and advising the person that the denial may be appealed to the Michigan tax tribunal within 35 days of the date of the denial.

(7) As used in this section:

(a) "Affiliated person" means a sole proprietorship, partnership, limited liability company, corporation, association, flow-through entity, member of a unitary business group, or other entity related to a person claiming an exemption under this section.

(b) "Direct integrated support" means any of the following:

(i) Research and development related to goods produced in industrial processing and conducted in furtherance of that industrial processing.

(ii) Testing and quality control functions related to goods produced in industrial processing and conducted in furtherance of that industrial processing.

(iii) Engineering related to goods produced in industrial processing and conducted in furtherance of that industrial processing.

(iv) Receiving or storing equipment, materials, supplies, parts, or components for industrial processing, or scrap materials or waste resulting from industrial processing, at the industrial processing site or at another site owned or leased by the owner or lessee of the industrial processing site.

(v) Storing of finished goods inventory if the inventory was produced by a business engaged primarily in industrial processing and if the inventory is stored either at the site where it was produced or at another site owned or leased by the business that produced the inventory.

(vi) Sorting, distributing, or sequencing functions that optimize transportation and just-in-time inventory management and material handling for inputs to industrial processing.

(c) "Eligible manufacturing personal property" means all personal property located on occupied real property if that personal property is predominantly used in industrial processing or direct integrated support. For personal property that is construction in progress and part of a new facility not in operation, eligible manufacturing personal property means all personal property that is part of that new facility if that personal property will be predominantly used in industrial processing when the facility becomes operational. Personal property that is not owned, leased, or used by the person who owns or leases occupied real property where the personal property is located is not eligible manufacturing personal property, unless the personal property is located on the occupied real property to carry on a current on-site business activity. Personal property that is placed on occupied real property solely to qualify the personal property for an exemption under this section or section 9n is not eligible manufacturing personal property. Utility personal property as described in section 34c(3)(e) and personal property used in the generation, transmission, or distribution of electricity for sale are not eligible manufacturing personal property. Personal property located on occupied real property is predominantly used in industrial processing or direct integrated support if the result of the following calculation is more than 50%:

(i) Multiply the original cost of all personal property that is subject to the collection of taxes under this act and all personal property that is exempt from the collection of taxes under sections 7k, 9b, 9f, 9n, and 9o and this section that is located on that occupied real property and that is not construction in progress by its percentage of use in industrial processing or in direct integrated support. For an item of personal property that is used in industrial processing, its percentage of use in industrial processing shall equal the percentage of the exemption the property would be eligible for under section 4t of the general sales tax act, 1933 PA 167, MCL 205.54t, or section 4o of the use tax act, 1937 PA 94, MCL 205.94o. Utility personal property as described in section 34c(3)(e) and personal property used in the generation, transmission, or distribution of electricity for sale is not included in this calculation.

(ii) Divide the result of the calculation under subparagraph (i) by the total original cost of all personal property that is subject to the collection of taxes under this act and all personal property that is exempt from the collection of taxes under sections 7k, 9b, 9f, 9n, and 9o and this section that is located on that occupied real property and that is not construction in progress. Utility personal property as described in section 34c(3)(e) and personal property used in the generation, transmission, or distribution of electricity for sale is not included in this calculation.

(d) "Fair market value" means the fair market value of personal property at the time of acquisition by the first owner, including the cost of freight, sales tax, installation, and other capitalized costs, except capitalized interest. There is a rebuttable presumption that the acquisition price paid by the first owner for personal property, and any costs of freight, sales tax, installation, and other capitalized costs, except capitalized interest, reflect the fair market value.

(e) "Industrial processing" means that term as defined in section 4t of the general sales tax act, 1933 PA 167, MCL 205.54t, or section 4o of the use tax act, 1937 PA 94, MCL 205.94o. Industrial processing does not include the generation, transmission, or distribution of electricity for sale.

(f) "New personal property" means property that was initially placed in service in this state or outside of this state after December 31, 2012 or that was construction in progress on or after December 31, 2012 that had not been placed in service in this state or outside of this state before 2013.

(g) "Occupied real property" means any of the following:

(i) A parcel of real property that is entirely owned, leased, or otherwise occupied by a person claiming an exemption under this section or under section 9n.

(ii) Contiguous parcels of real property that are entirely owned, leased, or otherwise occupied by a person claiming an exemption under this section or under section 9n and that host a single, integrated business operation engaged primarily in industrial processing, direct integrated support, or both. A business operation is not engaged primarily in industrial processing, direct integrated support, or both if it engages in significant business activities that are not directly related to industrial processing or direct integrated support. Contiguity is not broken by a boundary between local tax collecting units, a road, a right-of-way, or property purchased or taken under condemnation proceedings by a public utility for power transmission lines if the 2 parcels separated by the purchased or condemned property were a single parcel prior to the sale or condemnation. As used in this subparagraph, "single, integrated business operation" means a company that combines 1 or more related operations or divisions and operates as a single business unit.

(iii) The portion of a parcel of real property that is owned, leased, or otherwise occupied by a person claiming the exemption under this section or under section 9n or by an affiliated person.

(h) "Original cost" means the fair market value of personal property at the time of acquisition by the first owner. There is a rebuttable presumption that the acquisition price paid by the first owner for personal property reflects the original cost of that personal property. The department of treasury may provide guidelines for 1 or more of the following circumstances:

(i) Determining original cost of personal property when the actual acquisition price paid by the first owner for personal property is not determinative of the original cost of that personal property.

(ii) Estimating original cost of personal property when the actual acquisition price paid by the first owner for the personal property is unknown.

(iii) Adjusting original cost of personal property when the personal property is idle, is obsolete or has material obsolescence, or is surplus.

(i) "Person" means an individual, partnership, corporation, association, limited liability company, or any other legal entity.

(j) "Qualified new personal property" means property that meets all of the following conditions:

(i) Is eligible manufacturing personal property.

(ii) Is new personal property.

History: Add. 2012, Act 401, Eff. Mar. 28, 2013;—Am. 2013, Act 154, Imd. Eff. Nov. 5, 2013;—Am. 2014, Act 87, Imd. Eff. Apr. 1, 2014;—Am. 2015, Act 119, Imd. Eff. July 10, 2015;—Am. 2016, Act 108, Imd. Eff. May 6, 2016.

Compiler's note: Enacting section 1 of Act 401 of 2012 provides:

"Enacting section 1. Section 9m of the general property tax act, 1893 PA 206, MCL 211.9m, as added by this amendatory act, is repealed if House Bill No. 6026 of the 96th Legislature is not approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014."

Enacting section 1 of Act 87 of 2014 provides:

"Enacting section 1. The exclusion of generation, transmission, or distribution of electricity for sale from the definition of "industrial processing" under this amendatory act is not intended to affect any other provision of Michigan law or impact the decision in *Edison Company v Department of Treasury*, court of appeals docket no. 309732."

Enacting section 1 of Act 89 of 2014 provides:

"Enacting section 1. Section 9m of the general property tax act, 1893 PA 206, MCL 211.9m, as added by this amendatory act, is repealed if either House Bill No. 6026 of the 96th Legislature, 2012 PA 408, or Senate Bill No. 822 of the 97th Legislature is presented to the qualified electors of this state at an election to be held on the August regular election date in 2014 and the bill presented is not approved by a majority of the qualified electors of this state voting on the question."

Compiler's note: Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows:

"APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW

AND CREATE JOBS

The amendatory act adopted by the Legislature would:

1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan.
2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services.
3. Increase portion of state use tax dedicated for aid to local school districts.
4. Prohibit Authority from increasing taxes.
5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation.

Should this law be approved?

YES ☐

NO ☐

Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

Popular name: Act 206